Ministry of Infrastructure

The basis for the classification of the high-risk systems in the AIA from the Swedish standpoint

Both the GDPR and the Police Data Directive (LED) list a number of "principles" that must have a controlling effect on the processing of personal data. Other legal acts similarly state circumstances in order to clarify at an early stage the legal starting point for the regulation. Sweden draws attention to the fact that there is no clear reference to which risks are the basis for classifying certain AI systems as high risk (Appendix III) and thus which risks AIA intends to manage. However, this is very often a misunderstanding as to whether all AI systems have the same high requirements or whether it only applies to specified high-risk areas. There are also ambiguities in the articles that set out measures to manage risks with AI. Sweden therefore propose that relevant risks should be identified and included in the article text to facilitate the understanding and application of AIA, e.g. in a new Article 7a.

Article 7 identifies a number of risks, but also authorizes the Commission to adopt delegated acts to update the list of high-risk systems in Annex III. However, in addition to the risks listed in Article 7, only a number of risks are mentioned in different recitals (e.g. in 14 to 18). Therefore, the regulation is missing a clear indication of which risks have been used as a basis for the classification of high-risk systems and which risks are to be managed through the risk management system that the regulation aims to establish. It is also important that AI systems are not unnecessarily classified as high risk as the higher risk classification entails an increased administrative burden and other restrictions for the concerned actors. For Sweden, it appears for these reasons that it is important that we examine and discuss which risks are central to the regulation and how we can include them with the best possible

method, e.g. in a non-exhaustive list. As we see it from Sweden, such a listing of risks would contribute to:

- explain and build under the concept of high-risk system,
- provide a basis for classifying an AI system as high risk or, conversely, a basis for concluding that a particular AI system is not a high risk system,
- lead to a better understanding of the application of the risk-based approach to which the Regulation aims.